IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1017 OF 2005

M/s. Usha Ispat Ltd. & Ors. ...Petitioners

Versus

Dattaguru Ramchandra Marathe & Ors ...Respondents

.....

Mr. Kayyum Shaikh with Wajid Shaikh, counsel for Petitioners.

Mr. A.S. Khandeparkar, counsel for Respondents.

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CORAM: B. H. MARLAPALLE, J.

DATED: 1ST MARCH, 2005

P. C.:-

1. Heard Mr. Shaikh, the learned counsel for the petitioners who are the defendants in Regular Civil Suit No. 19 of 1994. They had filed an application at Exh.90 to issue witness summons to produce the documents which they claimed to be necessary for cross examination. This application has been rejected by the impugned order dated 8.12.2004 by the learned C.J.J.D. at Vengurla.

2. It was noted that the defendants had submitted similar application below Exh.30 on 18.4.94 for witness summons to the Sarpanch Reddy and he had produced two documents. The plaintiffs had raised

objection and pointed out that his examination in chief was concluded on 17.7.2002 and thereafter, on three occasions the suit was referred to Lok Nyayalaya for settlement but in vain. Exh.91 was filed after almost 10 years if regards be had to the application at Exh.30 and already two documents were submitted by the Sarpanch. If additional documents were required, it was not necessary for defendants to wait for 10 years. By referring to the Roznama, the trial Court noted that after the examination in chief was concluded on 17.7.2002, the defendants were seeking adjournments and pursis at Exh.88 was filed on 21.12.2002 for referring the matter to Lok Nyayalaya. The matter was fixed for cross examination on 16.1.2003, but the defendants filed adjournment application at Exh.81, again the matter was referred to Lok Nyayalaya and was returned as both the parties remained absent. The defendants filed another application at Exh.85 for adjournment, it was granted with costs of Rs.100/-. Exh.86 was another application for adjournment whereas the application at Exh.87 was filed by both the parties to compromise the suit and third time the suit came to be referred to the Lok Nyayalaya but without any success. The trial Court therefore, concluded that the defendants did not want to proceed with the suit inspite of several opportunities having been granted and their intentions were not bonafide.

3. The reasoning set out by the trial Court cannot be held to be perverse and, therefore, no interference is called for in the impugned order in this petition under Article 227 of the Constitution of India.

4. Hence, the petition is rejected summarily.